

## 48A C.J.S. Judges § 172

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### VI. Authority, Powers, and Duties

#### G. Territorial Limitations

## § 172. Extent and limits of authority of visiting judge

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  25, 30

**A visiting judge, or a judge who is assigned to hold court in a circuit in which he or she is not a resident judge, must ordinarily exercise judicial duties relating to the circuit only during the period of the assignment, and only while within the territorial boundaries of the circuit.**

The general rule is that a visiting judge, or a judge who is assigned to hold court in a circuit in which he or she is not a resident judge, must exercise judicial duties relating to the circuit only during the period of the assignment and only while within the territorial boundaries of the circuit.<sup>1</sup> After the judge's return to his or her home district, the judge cannot transact any judicial business connected with the other district except as the judge is specially authorized to do by law.<sup>2</sup>

The general rule restricting the authority of visiting judges to the period of their assignment, and within the territorial circuit, is not absolute,<sup>3</sup> and a judge who is no longer assigned to the circuit has the power to issue an order regarding matters which were submitted to the judge while presiding in the circuit and, thus, the judge may consider timely posttrial motions.<sup>4</sup> Additionally, where a case is remanded on appeal, the judge who issued the original order has the authority to make a specific ruling on remand and to issue an amended order even though the judge is not a resident of or then assigned to hold court in the judicial circuit where the case arose.<sup>5</sup>

During the period of assignment and while within the territorial limits of the district to which the judge has been temporarily assigned, a visiting judge ordinarily has the same powers, or the right to exercise the same powers, as the regular judge.<sup>6</sup> However, a statute providing that district judges may hold court for one another does not authorize one judge to act for the other in his or her capacity as an administrative officer.<sup>7</sup>

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Footnotes

- 1 S.C.—*Cox v. Fleetwood Homes of Georgia, Inc.*, 334 S.C. 55, 512 S.E.2d 498 (1999).  
For detailed discussion of the authority, powers, and duties of substitute or special judges, see §§ 364 to 374.
- 2 N.C.—*State v. Cagle*, 241 N.C. 134, 84 S.E.2d 649 (1954).  
Okla.—*Majors v. Dennis*, 1954 OK 169, 273 P.2d 767 (Okla. 1954).  
S.C.—*State v. Gorie*, 256 S.C. 539, 183 S.E.2d 334 (1971).
- 3 S.C.—*Cox v. Fleetwood Homes of Georgia, Inc.*, 334 S.C. 55, 512 S.E.2d 498 (1999).
- 4 S.C.—*Cox v. Fleetwood Homes of Georgia, Inc.*, 334 S.C. 55, 512 S.E.2d 498 (1999).
- 5 S.C.—*Cox v. Fleetwood Homes of Georgia, Inc.*, 334 S.C. 55, 512 S.E.2d 498 (1999).
- 6 Fla.—*V. F. B. v. State*, 223 So. 2d 556 (Fla. 1st DCA 1969).  
Mo.—*Buchanan v. Buchanan*, 167 S.W.3d 698 (Mo. 2005).  
N.Y.—*Helfond v. Helfond*, 53 Misc. 2d 974, 280 N.Y.S.2d 990 (Sup 1967).  
Tenn.—*Dupuis v. Hand*, 814 S.W.2d 340 (Tenn. 1991).
- 7 Tex.—*Lemmon v. Giles*, 342 S.W.2d 56 (Tex. Civ. App. Dallas 1960), writ dismissed, (Feb. 8, 1961).  
As to administrative powers and duties of judges, generally, see §§ 146 to 150.